

REMARKS

Reconsideration of the issues raised in the above-referenced Office Action is respectfully solicited.

Applicants appreciate the examination of Claims 1-16 directed to the first embodiment illustrated in Figures 1-4 and the second embodiment illustrated in Figure 5.

There is no express indication that the Information Disclosure Statement filed July 25, 2003 has been considered. MPEP §609(I) at MPEP page 600-125 states that information considered by the Patent Office in a parent application will be considered and need not be resubmitted in a continuation application. The attached copies of the Information Disclosure Statement and Form PTO-1449 are provided to ensure that the references cited in the parent application will be listed on any patent issuing from this application. Applicants respectfully request an initialed copy of Form PTO-1449 indicating consideration of the listed references.

The objection to Claims 5 and 12 has been considered. Claims 1 and 11 have been amended to address the inconsistencies in the claims. Approval and withdrawal of the objection is respectfully requested.

The rejection of Claims 1, 2, 4-8 and 10-16 under 35 USC §103 as being unpatentable over Tanaka (U.S. Patent No. 5 700 091) in view of Benoit (U.S. Patent No. 4 747 815), Akao (U.S. Patent No. 5 017 429), Lang (U.S. Patent No. 5 091 241) and Akao (U.S. Patent No. 4 906 517) has been considered.

Tanaka discloses a bag 31 formed by a bag body 14 having a sealing layer 28 and an outer layer 29. As illustrated in Figure 1 of Tanaka, the bag includes a snap fastener 11 with a male strip member 12 and a female strip member 13, each of which is formed with a band-like base portion 15. The base portions 15 of the strip members are secured to opposing inner surfaces of the bag body 14. The bag body 14 shown in Figure 2 of Tanaka includes a sealant layer 28 comprising a linear chain of load-density polyethylene (L-LDEP) and a biaxially oriented nylon film as an outer base material 29. Figure 3 of

Tanaka shows that the snap fastener 11 extends across the width of a top portion of the bag and that the snap fastener and the elements thereof are secured on the inner surfaces of the bag body, rather than being "laminated on outer surfaces of the bag body". In use, the snap fastener 11 of Tanaka enables repeated opening and closing of the bag.

Benoit discloses preparing a collection of ultra-thin bags made from two separate thermoplastic films and discloses providing lines of weakness for separating the bags.

U.S. Patent No. 5 017 429 to Akao (the '429 patent) discloses packaging material for photosensitive materials. The material includes a laminated film having a metal foil or metallized flexible sheet layer to protect photographic film. Column 13, lines 26-29 states that the package form may be usual, and includes a single-sheet flat bag, a double-sheet flat bag, a self-standing bag, a single-sheet gusset bag, and a double-sheet gusset bag. Thus, the package form disclosed in Akao is not considered to be of concern as the patent is directed to providing a light-shielding layer for photographic film. While the various types of bags may be equivalent for the purpose of storing film, which Applicants do not admit, there is no disclosure of the various bags being equivalent for any other purposes.

Lang discloses a film laminate that is easy to tear. Pouches are made by a heat-seal backing plate 14 and a vertical heat-sealing jaw 16. A slit or perforation 35 is provided to enable tearing of the pouch, which can contain a flowable material.

U.S. Patent No. 4 960 517 to Akao (the '517 patent) discloses a packaging material for photosensitive materials that has a V-shaped notch 34, as illustrated in Figure 43, to enable tearing of the bag in a longitudinal direction. The '517 patent is mainly concerned with the properties of a co-extruded multi-layer film layer having a light-shielding material. Such packaging material can be utilized for photosensitive materials as in the '429 patent.

There is no motivation to selectively combine features or teachings from Benoit, the '517 patent, the '429 patent and Lang with Tanaka in an attempt to obtain Applicants' invention. As discussed above, Tanaka discloses a resealable flexible bag for storing food or a variety of goods, the bag including the snap fastener 11 extending across a width at the top thereof. Lang and the '517 patent both disclose the use of notches for pouches or packaging that is tearable to open the package. This single use packaging has an entirely different purpose and function as compared to the reusable snap fastener, which is the key feature emphasized in Tanaka. Thus, it is unclear why one having ordinary skill in the art would substitute or provide a non-reusable tear away bag structure as disclosed in Lang and/or the '517 patent for the reusable snap fastener of Tanaka. Such a modification would destroy the reusable purpose of Tanaka. Further, Tanaka desires to avoid tearing of the bag in order to allow reuse thereof. Therefore, one of ordinary skill would not look to Lang or the '517 patent in order to modify Tanaka to function in a non-reusable manner or to be tearable in a given direction, which would degrade the performance of the reusable bag.

The '429 patent discloses utilizing a laminated film with a metal foil with any type of package form. There is no disclosure, however, of these package type bags being generally equivalent to each other. Thus there is no motivation, absent Applicants' specification, to increase the thickness of Tanaka to provide a self-standing bag. Further, increasing the thickness of the bag body of Tanaka likely will make resealing the bag more difficult and make the bag more costly. Thus one of ordinary skill in the art would not consider increasing the thickness of the bag body.

For the above reasons, there is no motivation to arbitrarily provide Tanaka with various features of the additional applied prior art references in order to obtain Applicants' invention.

Further, Applicants' claims recite features not present in or taught by the applied prior art. For example, with respect to Claim 1, the Office Action states that films 25-27 correspond to the first to third films of the present invention. Layers 25-27 illustrated in Figure 2 of Tanaka are a part of a snap fastener laminated on an inner surface of a bag body. Claim 1 recites a uni-axially drawn third resin film that is "laminated on a portion of outer surfaces of the bag body". This feature is not present in Tanaka.

The Office Action indicates that the layers 25-27 of Tanaka are a part of the bag body and thus each are a layer of a body within the bag. Page 3, lines 8-9 of the Office Action state that "a third film is laminated on a portion of outer surfaces of the bag body" and references layer 25 laminated onto nylon film layer 26. The third film 25, however, is already defined as part of the bag body in the Office Action. As discussed above, the layer 25 is an intermediate layer that secures to an inner surface of the bag body 14 illustrated in Figure 2 of Tanaka. An intermediate layer within a bag body can not properly be considered a third resin film on an outer surface of a bag body.

Claim 1 recites "a uni-axially drawn third resin film". Lang is relied upon at column 4, lines 21-22 for this feature. As discussed above, however, there is no motivation to combine this feature of Lang with Tanaka. The Office Action states that one "of ordinary skill in the art would therefore recognize the advantage of providing for the uniaxially drawn film of Lang et al. in Tanaka ... depending on the desired tear strength in the uniaxial direction of the end product". This statement is not understood, as the Tanaka bag is not designed to be torn. Tanaka would not utilize or desire a uni-axially drawn resin film as such could lead to failure of the bag. Thus, rather than providing an advantage by utilizing the teaching of Lang, such teaching would result in the reusable bag of Tanaka having a less robust strength. Therefore one of

ordinary skill in the art would not modify Tanaka in such a manner.

Claim 1 recites "a splitting notch formed outside of the bag body and extending through a portion of the third resin film and a portion of the bag body". As discussed above, the Office Action states that the third film laminated on an outer surface of the bag body is represented by layer 25, which is a part of a base portion of the snap fastener. This base portion extends only within a portion of the bag as illustrated in Figure 3 of Tanaka. It is not understood why one of ordinary skill would form a splitting notch through this third resin film in the bag body of Tanaka for tearing thereof, when the base portion is utilized to support a snap fastener that provides an opening and closing function. Destruction of the base portion 15 of Tanaka prevents the base portion from providing its intended function of supporting the snap fastener.

Claim 1 further recites the bag body being 80 to 150 μm thick, which differs from Tanaka which has a sealant layer with a thickness of 40 μm .

The Office Action states that it would have been obvious to vary the thickness of a bag formed in order to obtain a desired extrudability for Tanaka. It is unclear how the ease of extruding or obtaining a "desired extrudability" would bear on the chosen thickness. Instead, one of ordinary skill in the art typically provides a minimum thickness that is adequate to perform the task at hand without unnecessarily using additional film material. Therefore, Applicants believe there is no motivation to arbitrarily increase the thickness of the film of Tanaka in order to obtain the invention recited in Applicants' Claim 1.

Claims 2, 4 and 5 are distinguishable from the applied prior art for the reasons set forth above with respect to Claim 1.

Independent Claim 6 is allowable in view of the lack of motivation to combine the various references as discussed above.

Further, amended independent Claim 6 recites "first and second resin films laminated onto the opposing outer surfaces of the bag body and extending in a first direction across the entirety of the bag body so that only a portion of the bag body is disposed therebetween". With regard to the Office Action and the rejection of Claim 6, the Office Action considers the entire nylon film 29 to be a multi-layer film that can also comprise a split guide (see pages 6 and 7 of the Office Action).

Applicants disagree with this analysis as a bag body or film that covers the entirety of the bag cannot act as a split guide as the Office Action infers. Further, such an interpretation does not include the situation recited in amended Claim 1 wherein "only a portion of the bag body is disposed therebetween" (between the resin films).

Further, Claim 6 recites "a notch at one edge of the first and second resin films and extending through the first and second resin films and the bag body" and "the notch enabling tearing of the first and second resin films and the bag body across the first direction to open the sealed bag body". These features distinguish the applied prior art for reasons set forth above.

Dependent Claims 7, 8 and 10-16 include additional features that distinguish the applied prior art. For example, the thicknesses in Claims 13 and 14 are not present in Tanaka. As discussed above, varying the thickness of a film to obtain a desired extrudability would not be obvious to one in the ordinary skill in the art as the thickness typically is an important feature and a means for extruding to provide the desired thickness may be considered a routine optimization. Further, providing the claimed thickness would reduce the pliability of the bag 31 of Tanaka and thus reusing of the bag by closing the snap fastener 11 would become more difficult.

Therefore, one of ordinary skill would not increase the thickness of the bag of Tanaka, except in an attempt to obtain Applicants' claimed invention.

The Office Action states that enabling tearing of the bag body is directed to a "functional" use rather than a structure and therefor is given little patentable weight. The Office Action further states that Tanaka discloses a crystalline area and the method of making such area is given little patentable weight as tearing is a functional use. Applicants disagree as the first and second resin films and the bag body require and have physical properties that enable such tearing. For example, as recited in Applicants' Claim 16, the resin films each comprise a crystal area arrayed in a first direction "by uni-axially drawing of the first and second films only in the first direction before or while laminating the resin films to the bag body" to enable "tearing of the split guide in the first direction across the bag body while resisting tearing of the split guide in a third direction transverse to both the first direction and the second direction". The uni-axial drawing of the films in the first direction results in a split guide with the necessary physical properties that allow tearing in a single direction the bag body.

Finally elements may be defined by their function. As set forth in 35 USC §112, sixth paragraph, means-plus-function claims are well known to define various elements by their function.

The rejection of Claims 3 and 9 under 35 USC §103 as being unpatentable over Tanaka, Benoit, the '429 patent, Lang and the '517 patent and further in view of Ito (U.S. Patent No. 4 623 587) has been considered. Claims 3 and 9 are allowable for the reasons set forth above with respect to parent Claims 1 and 6, respectively.

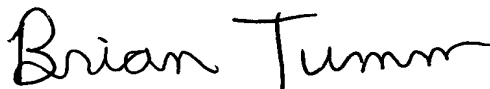
Added Claim 17 recites that the "split guide extending across the bag body is band-shaped". This differs from the analysis of independent Claim 6 set forth in the Office Action

which indicates that the entire outer surface of the bag body comprises the resin films forming the split guide.

Further, added Claim 18 recites that the seal about the periphery of said sheets of the laminated film comprises "a heat seal extending about the entire periphery of said bag body". This arrangement differs from Tanaka, which appears to have only a snap fastener 11 for sealing a top end of the bag.

Further and favorable reconsideration is respectfully solicited.

Respectfully submitted,



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136.07/05μ